MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2015/2016

UIL2712 – ISLAMIC LAW I

(All Sections / Groups)

10 OCT 2015
Reading Time : 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of al Quran Translation.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

"The conditions, interests, customs and sects of the world and nations do not continue according to any specific pattern or stable program. There is always change from time to time and from condition to another. In as much as this applies to persons, times and provinces, it applies likewise to countries, ages and states. Such is God's order amongst His creatures. This social reality undoubtedly leads to a change in people's interest. In view of the fact that the interests of the people are the foundation of the Syariah, it is both necessary and reasonable that the Syariah rules should undergo changes to suit the changing conditions and needs – Ibnu Khaldun."

Discuss the above statement in the light of the functions and suitability of *'Urf* (Customs) and *Maslahah Mursalah* (Considerations of Public Interest) as rational and developing methods in deducing Islamic legal rulings for the modern times.

(25 marks)

QUESTION 2

i. The Holy Al Quran is defined as a communication from Allah through the Angel Gibrael to the Prophet Muhammad (p.b.u.h) in Arabic language and transmitted by a continuous testimony or *tawatur*, in the very words of Allah.

(a) Discuss the above definition by referring to the principle of graduality in the revelation of the Al Quran.

(6 marks)

(b) Compare between *Makk*i and Madani chapters of the *Al Quran.*

(6 marks)

ii. Muslim scholars have classified Sunnah into three (3) general categories: *Ahkam* (nature/concept of law), *Riwayah* (Transmission) and Reliability of narrators.

Elaborate on any two of the above categories, and support your answer with some examples.

(13 marks)

(Total: 25 marks)

Continued .....

QUESTION 3

i. *Ijma'* is divided into two types, *Ijma Qawli* and *Ijma Sukuti.*

Explain both types and give scholars' views on its validity as a binding proof/source in Islamic law.

(10 marks)

ii. *"The states Administration of Islamic Law Act, Enactment and Ordinance provide that, no statement made by the Mufti shall be taken as a Fatwa unless and until it is ruling according to the enacted procedures and then published in the Gazette. Since the jurisdiction of the administration of Islamic law has been given to the states, the enforcement of the fatwa is under the state jurisdiction. Besides that, no state can be forced to recognize the Fatwa made by the National Fatwa Council..."*

(Extract from an article by Zaini Nasohah, Undang-Undang Penguatkuasaan Fatwa di Malaysia, Islamiyyat 27(1) (2005) UKM, pg. 25)

Do you think that a statement made by a Mufti should be taken as a Fatwa since there are no procedures nor rulings by the state laws i.e. Administration of Islamic law Enactments and Ordinances to recognize and enforce the Fatwa made by the National Fatwa Council ?

(15 marks)

(Total: 25 marks)

Continued .....

QUESTION 4

i. *"...and do not come near to adultery, it is a shameful deed and an evil, and opening the road to other evils..."*

(Chapter An Nur: 2)

a) Highlight the original case in the above statement,

(3 marks)

b) Identify the *Illah* in the above case,

(3 marks)

c) What is the *Hukm* mentioned in the verse,

(3 marks)

d) Propose a relevant case which can be *Far'u* (new case) in Analogy (*Qiyas*).

(3.5 marks)

(Total: 12.5 marks)

ii. "A Companion (*Sahabah*), according to most jurists, is someone who saw the Prophet (pbuh), believed in him, supported him and was in association with him for some time so that he could understand something of the ways of the Shariah from him..."

(An extract from Al Sarakhsi, Kitab Al Usul, Vol 2, pg. 108-109)

Based on the above statement, it seems to suggest that it was the Companions who interpreted the law and developed it where needed. They undertook *ijtihad*, issued rulings, settled cases and became a source of guidance for later generations.

Discuss the views of jurists who accept *Qawl al Sahabi* or *Fatwa al Sahabi* as a source of Islamic law.

(12.5 marks)

(Total: 25 marks)

Continued .....

QUESTION 5

i. Al-Bazdawi defines *Istihsan* as 'moving away from the implications of analogy to an analogy that is stronger than it' or 'it is the restriction of analogy by an evident that is stronger than it'.

a) Discuss the above definition in details and how is it applied in Islamic jurisprudence.

(6.5 marks)

b) Discuss the types of Istihsan. Support your discussion with examples.

(6 marks)

ii. Most scholars, in principle, agree that the principle of *Sadd Al-Dharaie* (Blocking the means) is a source of Islamic legislation except some such as Imam Ibn Hazm, but it was the Maliki School that gave it more importance and credence.

Discuss the admissibility of *Sadd al-Dharaie* as a source in Islamic law by referring to the views of the Muslim scholars.

(12.5 marks)

(Total : 25 marks)

The End